

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS**

BENTON DIVISION

Sheila Johnston, individually and on behalf of
all others similarly situated,

Plaintiff,

- against -

Kashi Sales, L.L.C.,

Defendant

3:21-cv-00441-NJR

STIPULATION TO FILE SECOND AMENDED COMPLAINT

WHEREAS:

1. Plaintiff Sheila Johnston (“Plaintiff”) filed this action against Defendant Kashi Sales, L.L.C. (“Defendant”) on May 2, 2021. ECF No. 1.
2. On September 8, 2022, the Court granted in part and denied in part Defendant’s Motion to Dismiss the operative First Amended Complaint. ECF No. 30.
3. The Court adopted the Parties’ Joint Report and Scheduling and Discovery Order (“Scheduling Order”) on October 27, 2022 and set March 3, 2023 as the deadline for depositions of any plaintiffs.
4. Plaintiff Johnston seeks to dismiss her claims with prejudice.
5. Plaintiff’s Counsel has informed Defendant that Illinois citizens Dana Foley and Will Waltemate seek to substitute as Plaintiffs for Plaintiff Johnston.
6. Federal Rule of Civil Procedure 15(a)(2) permits Plaintiffs to file an amended complaint “with the opposing party’s written consent,” which Defendant has provided here.
7. Defendant consents to Plaintiffs’ request to file a Second Amended Complaint

substituting Plaintiffs Foley and Waltemate for Plaintiff Johnston.

8. The substitution of Plaintiffs Foley and Waltemate for Plaintiff Johnston will not affect any deadlines set by Court order, as the parties have scheduled the depositions of Plaintiffs Foley and Waltemate for March 2, 2023 and March 3, 2023.

9. In connection with this Stipulation, Plaintiff is submitting a Proposed Order to the Court's designated email address.

NOW, THEREFORE, the parties stipulate and agree, pursuant to Federal Rule of Civil Procedure 15(a)(2), to permit Plaintiffs to file the attached Second Amended Complaint substituting Plaintiffs Dana Foley and Will Waltemate for Plaintiff Sheila Johnston.

February 27, 2023

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